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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/707,830	01/15/2004	Donald J. Henry	P04-04	1829
25759	7590	08/25/2004	EXAMINER	
JOHN J. ELNITSKI, JR. 225 A SNOWBIRD LANE BELLEFONTE, PA 16823			GUADALUPE, YARITZA	
			ART UNIT	PAPER NUMBER
			2859	
DATE MAILED: 08/25/2004				

Please find below and/or attached an Office communication concerning this application or proceeding.

NS

# Office Action Summary

Application No.

10/707,830

Applicant(s)

HENRY, DONALD J.

Examiner

Yaritza Guadalupe McCall

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4 and 12-15 is/are rejected.
- 7) ☒ Claim(s) 5-11 and 16-18 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 15 January 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____.  |

## DETAILED ACTION

### *Drawings*

1. The drawings are objected to because the L-shaped slots shown in Figures 2 – 4 are not accurate. The direction of the L-shaped slots should be opposite to one another and not a mirror image in order to properly latch when receiving a stud. Once the stud is received in one of the L-shaped slots and the cover is rotated to latch the stud in the slot, the second slot will not operate, because the aperture should face the opposite direction. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as “amended.” If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be labeled “Replacement Sheet” in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

*Claim Rejections - 35 USC § 103*

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1 – 4 and 12 – 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Khoshnood ( US 6,601,308 ) in view of Wheeler et al. ( US 5,669,703 ).

Khoshnood discloses a sight protective cover system adapted for an archery bow target sight, comprising a protective cover ( 24 ), said protective cover being an open shaped body, a mounting section ( 42 ) adapted to extend from the target sight ( 38 ), said mounting section including a protective cover insert ( 42A ) extending outward from said mounting section and away from the target sight, said protective cover insert sized to fit inside said body of said protective cover ( See Figure 2 ), and a spring member ( 42A ) between said mounting section and said protective cover to provide tension between said mounting section and said protective cover together. Khoshnood further discloses said mounting section ( 42 ) being an integral part of the target sight ( 38 ). Khoshnood also discloses said spring member ( 42A ) being at least one flexible gasket and further including a stop ( 70A ) within said open shaped body of said protective cover to provide a solid surface against said at least one flexible gasket.

Khoshnood does not disclose said body having at least two L-shaped a mounting section adapted to extend from the target sight, and at least two studs extending from said protective cover insert to interact with said at least two L-shaped slots to lock said mounting section and said protective cover together as stated in claim 1. Khoshnood does not disclose said mounting section being a separate part which attaches to the target sight as stated in claim 3. Khoshnood does not disclose said mounting section including threads to thread to the target sight as stated in claim 4.

With respect to claim 1 : Khoshnood discloses an archery bow sight having a protective cover system as stated above, including a target sight ( 38 ) and a protective cover ( 24 ) having a mounting section ( 42 ) including a stop ( 40 ), said stop having a connecting mechanism including apertures that allows alignment with apertures ( 56 ) provided in the protective cover (24) and receives screws ( 58, 60, 62 ) in order to aid in locking said mounting section and said protective cover together. Wheeler et al. discloses a device having a cylinder ( 10 ) having at least two L – shaped slot ( 18 ), and a connecting cylindrical portion ( 30 ) having at least two studs ( 34 ) extending from said connecting portion to interact with said at least two L-shaped slots to lock said two cylindrical elements. Therefore, it would have been obvious to a person having ordinary skill in the art at the time the invention was made to replace the connecting mechanism disclosed by Khoshnood, with a connecting mechanism including a pair of studs disposed in the mounting section and L-shaped slots disposed in the protective cover as taught by

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Wheeler et al. in order to securely retain both structures in connection and since the use of studs and slots are considered alternate types of connecting mechanisms that will help improve the connection between structures based on design choice, preference and/or use of the device.

Regarding claim 3 : Khoshnood discloses the mounting section ( 42 ) being an integral part of the target sight ( 38 ) as stated above. It would have been obvious to a person having ordinary skill in the art at the time the invention was made the mounting section a separate part that attaches to the target sight , since it has been held that constructing a formerly integral structure in various elements involves only routine skill in the art. Nerwin v. Erlichman, 168 USPQ 177, 179.

In regards to claim 4 : Khoshnood discloses the mounting section ( 42 ) of the target sight ( 38 ) having a rim ( 40 ) with a plurality of threaded holes, and a protective cover ( 24 ) having a plurality of threaded holes ( 54 ) that allows alignment with the holes provided in the target sight so as to receive a plurality of screws that will connect the cover to the target sight. The use of the particular type of connection means claimed by applicant, i.e., threads, absent any criticality, is considered to be nothing more than a choice of engineering skill, choice or design because 1) neither non-obvious nor unexpected results, i.e., results which are different in kind and not in degree from the results of the prior art, will be obtained as long as the protective cover is securely attached to the target sight, as already suggested by Khoshnood and wheeler et al., 2) the connecting means claimed by Applicant and the connecting means used by Khoshnood and wheeler et al. are well known alternate types of connecting means which will perform the same

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function, if one is replaced with the other, of securely connecting the protective cover and the target sight, and 3) the use of the particular type of connecting means by Applicant is considered to be nothing more than the use of one of numerous and well known alternate types of connecting means that a person having ordinary skill in the art would have been able to provide using routine experimentation in order to securely connect the protective cover and the target sight as already suggested by Khoshnood and Wheeler et al.

#### ***Allowable Subject Matter***

4. Claims 5 – 11 and 16 – 18 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

#### ***Conclusion***

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The following references are considered of relevance to the present application :

- a. Larson ( US 3,997,974 )
- b. Lorocco ( US 6,016,608 )

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- c. Connors et al. ( US 5,434,704 )
- d. Podany et al. ( US 4,638,565 )
- e. Capson et al. ( US 5,850,700 )
- f. Henry ( US 6,701,632 )
- g. Polk et al. ( US 5,359,779 )
- h. Chipman ( US 5,697,357 )
- i. Chou et al. ( US 5,249,002 )
- j. Lorocco ( US 6,477,778 )

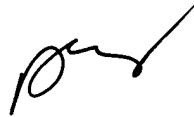
6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Yaritza Guadalupe McCall whose telephone number is (571)272-2244. The examiner can normally be reached on 8:00 AM - 5:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Diego F.F. Gutierrez can be reached on (571) 272-2245. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.



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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Yaritza Guadalupe-McCall  
Patent Examiner  
Art Unit 2859  
August 20, 2004

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